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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 ELDON M. MADDEN,

13 Defendant.

NO. CR05-213RSL

ORDER DENYING MOTION TO
REDUCE SENTENCE

14 **I. INTRODUCTION**

15 This matter comes before the Court on defendant Eldon M. Madden's "Motion to Reduce
16 Sentence," Dkt. #47. Defendant requests a sentence reduction under 18 U.S.C. § 3582(c)(2)
17 based on Amendment 706 to the United States Sentencing Guidelines, which reduces the base
18 offense level for cocaine base offenses. For the reasons set forth below, the Court denies
19 defendant's motion.

20 **II. DISCUSSION**

21 **A. Background**

22 Defendant pleaded guilty to possession of cocaine base with intent to distribute pursuant
23 to a binding plea agreement under Fed. R. Crim. P. 11(c)(1)(C). In the plea agreement, "the
24 parties acknowledge[d] and agree[d] that the appropriate term of imprisonment to be imposed by
25 the Court at the time of sentencing should be within the range of 120 to 160 months." Dkt. 30 at
26 5. On December 1, 2005, the Court determined that defendant's Total Offense Level was 31

1 and his Criminal History Category was VI. See Dkt. #39 at 26. Because the Court found
2 defendant to be a career offender, his guidelines range was 188 to 235 months. Id. However, in
3 imposing its sentence, the Court accepted the plea agreement and sentenced defendant to 120
4 months imprisonment. See id. at 29; Dkt. #38 at 2.

5 In 2007, the United States Sentencing Commission issued Amendment 706, lowering the
6 base offense level for cocaine base offenses under U.S.S.G. § 2D1.1, and applied the
7 amendment retroactively. Defendant now asks the Court to modify his sentence in light of
8 Amendment 706.

9 **B. Analysis**

10 Under the Sentencing Reform Act, the Court may reduce the term of imprisonment “in
11 the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing
12 range that has subsequently been lowered by the Sentencing Commission.” 18 U.S.C. §
13 3582(c)(2). When an amendment to the guidelines has no effect on a defendant’s sentencing
14 range, a motion for a reduced sentence under § 3582(c)(2) is properly denied. United States v.
15 Townsend, 98 F.3d 510, 513 (9th Cir. 1996).

16 Because Amendment 706 does not affect defendant’s sentencing range, the Court lacks
17 discretion to reduce his sentence under § 3582(c)(2). Defendant’s sentence was not “based on”
18 a guidelines range “that has subsequently been lowered by the Sentencing Commission,” 18
19 U.S.C. §3582(c)(2). Instead, it was based on a Fed. R. Crim. P. 11(c)(1)(C) plea agreement.
20 Once the Court accepted the plea agreement, it was bound to impose a sentence within the
21 agreed-upon range, and the Court must adhere to that sentence irrespective of any subsequent
22 amendments to the guidelines. See, e.g., United States v. Trujeque, 100 F.3d 869, 869 (10th Cir.
23 1996) (“[B]ecause [defendant] entered a plea agreement specifying a term of imprisonment
24 pursuant to Fed. R. Crim. P. 11(e)(1)(C) [now Rule 11(c)(1)(C)], he may not seek a reduction in
25 his sentence via 18 U.S.C. § 3582(c)(2).”); United States v. Johnson, No. 05-40107-01-RDR,
26 2008 WL 4758581, at *1 (D. Kan. Oct. 27, 2008) (“Because the parties entered into an

1 agreement under Rule 11(c)(1)(C) . . . , the court is bound by the previously imposed term [of
2 imprisonment].”); United States v. Hines, No. 3:02-CR-141, 2008 WL 2169516, at *2
3 (“[B]ecause the defendant in this case was sentenced pursuant to a Rule 11(c)(1)(C) plea
4 agreement, Amendment 706 does not lower his sentencing range and the Court does not have the
5 authority to reduce his sentence pursuant to 18 U.S.C. § 3582.”); United States v. Frazier, No.
6 CR02-0056-LRR, 2008 WL 2036827, at *1 (N.D. Iowa May 8, 2008). Defendant’s suggestion
7 that the agreed-upon range was itself based on the Sentencing Guidelines is unavailing. Even if
8 the range in the plea agreement was informed by the guidelines, defendant’s 120-month sentence
9 is *directly* based on the Rule 11(c)(1)(C) plea; its indirect connection to the Sentencing
10 Guidelines is not enough to trigger the Court’s discretion under § 3582. See United States v.
11 Cieslowski, 410 F.3d 353, 364 (7th Cir. 2005) (“A sentence imposed under a Rule 11(c)(1)(C)
12 plea arises directly from the agreement itself, not from the Guidelines, even though the court can
13 and should consult the Guidelines in deciding whether to accept the plea.”); United States v.
14 Peveler, 359 F.3d 369, 379 (6th Cir. 2004) (holding that the district court is precluded from
15 altering a Rule 11(c)(1)(C) plea agreement “despite the retroactivity of a subsequent amendment
16 to a relevant guideline utilized to determine the defendant’s sentence”); cf. United States v.
17 Clayborn, No. 1:CR-05-51-01, 2008 WL 2229531, at *2 (M.D. Pa. May 28, 2008) (“While the
18 applicable guidelines range may have been a factor affecting [defendant’s] decision to enter into
19 a plea agreement, this does not mean that he is eligible for relief under section 3582.”).¹

20 Finally, even if the Court had the discretion to reduce defendant’s sentence, it would not
21 do so. The Court recognizes that defendant’s conduct while incarcerated has been exemplary;
22 defendant has proven his commitment to improving his education and acquiring the skills that
23 will serve him well upon release. Defendant’s admirable success while in prison only confirms
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25 ¹ Because the Court denies the motion based on the Rule 11(c)(1)(C) plea agreement, the Court
26 need not decide whether defendant’s career offender status also precludes a sentence reduction under 18
27 U.S.C. § 3582(c)(2).

1 that the Court was right to impose a sentence at the lowest end of the agreed-upon range. The
2 Court finds that the original sentence was the correct one.

3 **III. CONCLUSION**

4 For the foregoing reasons, defendant's motion to reduce his sentence (Dkt. #47) is
5 DENIED.

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7 DATED this 17th day of November, 2008.
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13 Robert S. Lasnik
14 United States District Judge
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